

NOT INTENDED FOR PUBLICATION

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE:	:	CASE NO. 03-82668
	:	
SANDRA K. CLANSY,	:	CHAPTER 7
	:	
Debtor.	:	JUDGE DIEHL
_____	:	

ORDER

On November 10, 2004, J.L. Jordan, counsel for Sandra Clansy (“Debtor”) filed a pleading titled “Notice and Request for Withdrawal” (Docket No. 56). Mr. Jordan seeks permission from the Court to be allowed to withdraw as counsel of record for Debtor. The Court has reviewed the request to withdraw filed by Mr. Jordan and for the reasons set forth below denies the request without prejudice.

On November 26, 2003, when Debtor first commenced this case under chapter 13, she was represented by Fannie H. Gilliam. The Debtor attended the section 341 meeting of creditors and objections to confirmation were promptly filed by the Chapter 13 Trustee and by a creditor, CIT Group / Consumer Finance (“CIT”). On February 2, 2004, Debtor, through Ms. Gilliam, filed an objection to the claim of CIT and the objection was set for hearing on March 16, 2004. Meanwhile, on February 18, 2004 the Debtor *pro se*, filed a request that her case be converted to one under Chapter 7. On February 26, 2004, CIT filed a Motion for Relief from Stay which was scheduled for hearing on March 25, 2004 and then rescheduled for April 5, 2004. On April 5, 2004 Mr. Jordan filed both a notice of appearance on behalf of Debtor, and a response to the motion for relief. Notwithstanding Mr. Jordan’s entry of

appearance on the Debtor's behalf, the Court notes that Ms. Gilliam had never sought leave to withdraw as counsel. On April 5th both the Objection to Claim and Motion for Relief from Stay were rescheduled for an evidentiary hearing on April 23, 2004. At the April 23, 2004 hearing the Court denied the Motion for Relief From Stay and sustained the Objection to the Claim of CIT. This was memorialized in an Order entered on the docket on April 26, 2004. On May 6, 2004, CIT filed a Motion for Reconsideration. The parties are currently engaging in discovery in the pending contested matter pursuant to Bankruptcy Rules 7026 and 7028-7037, made applicable by Bankruptcy Rule 9014.

Bankruptcy Local Rule 9010-2(a) provides that counsel will not ordinarily be allowed to withdraw when withdrawal will cause a delay in the progress of a contested matter. Presently, the Court has before it a pending motion by CIT requesting that the Court reconsider an Order entered on April 26, 2004. As addressed in a separate Order entered by the Court on October 26, 2004 dealing specifically with discovery matters, the Motion for Reconsideration filed by CIT is a contested matter. The April 26th Order references a hearing conducted where Mr. Jordan was present on Debtor's behalf. Therefore the Motion for Reconsideration clearly relates back to events that transpired while Mr. Jordan was counsel for Debtor. Accordingly, the Court is concerned that Jordan's absence may frustrate the progress of this contested matter.

However, as noted above, Ms. Gilliam has also not complied with the local rules pertaining to withdrawal of counsel. To date, she has not filed a motion to withdraw, nor has she filed with the Court a certificate of consent as set forth in BLR 9010-2(b). The objection to claim resolved by the April 26, 2004 order which CIT wants the Court to reconsider, was originally filed by Ms. Gilliam on behalf of the Debtor. The Court is reticent to leave Debtor without counsel at this stage of the contested matter. However, if Ms. Gilliam will resume her

representation of Debtor, which technically she is obligated to do, the Court may reconsider its denial of Jordan's request to withdraw as counsel for Debtor. Accordingly it is

ORDERED that Mr. Jordan's request to withdraw as counsel for Debtor is hereby **DENIED** without prejudice.

The Clerk shall serve a copy of this Order upon the parties listed on the attached distribution list.

At Atlanta, Georgia, this 2nd day of December, 2004.

MARY GRACE DIEHL
UNITED STATES BANKRUPTCY JUDGE

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